

ILLINOIS REGISTER

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Advance Deposit Wagering (ADW)
- 2) Code Citation: 11 Ill. Adm. Code 325
- 3)

<u>Section Number:</u>	<u>Adopted Action:</u>
325.10	Amend
325.60	Amend
325.80	New
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Rulemaking: January 1, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporation by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's central office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 34 Ill. Reg. 13298 – September 17, 2010.
- 10) Has JCAR issued a Statement of Objections to this rule? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter issued by JCAR? Yes
- 13) Will these amendments replace any emergency amendments currently in effect? Yes, emergency amendments became effective on September 2, 2010.
- 14) Are there any other proposed amendments pending in this Part? No
- 15) Summary and purpose of rulemaking: On August 31, 2010, the Board voted in favor of raising the limit of the interstate commission fee, found in Section 325.60(d), the fees ADW licensees are charged by out-of-state racetracks, from 5% to no more than 9%. The 5% cap originally set by the Board was not well received by racing fans using ADW platforms because several prominent out-of-state racetracks refused to sell their race signal

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to licensed Illinois ADW's for 5%. Section 325.10 proposes a definition for "licensee," which is the same definition found in the Horse Racing Act. Lastly, the Board is proposing in Section 325.80 that no Illinois licensee shall engage in any anti-competitive practices in the process of contracting for the right to receive or send any interstate simulcast signal or wagering on such signal.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Mickey Ezzo
Illinois Racing Board
100 West Randolph, Suite 7-701
Chicago, Illinois 60601

(312) 814-5017

The full text of the Adopted Amendments begins on the next page:

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TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY

SUBTITLE B: HORSE RACING

CHAPTER I: ILLINOIS RACING BOARD

SUBCHAPTER a: GENERAL RULES

PART 325

ADVANCE DEPOSIT WAGERING (ADW)

Section

325.10	Definitions
325.20	License to Conduct Advance Deposit Wagering
325.30	Advance Deposit Wagering Rules
325.40	Requirements to Establish an Advance Deposit Wagering Account
325.50	Powers of the Board
325.60	Organization Licensee Simulcast Signals and Commission Fees
325.70	Interstate Simulcast Signals
<u>325.80</u>	<u>Anti-Competitive Practices</u>

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Emergency rule adopted at 33 Ill. Reg. 12860, effective September 2, 2009, for a maximum of 150 days; adopted at 34 Ill. Reg. 539, effective January 1, 2010; emergency amendment at 34 Ill. Reg. 581, effective January 1, 2010, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 34 Ill. Reg. 2761, effective February 3, 2010 for the remainder of the 150 days; emergency amendment at 34 Ill. Reg. 2823, effective February 3, 2010 for a maximum of 150 days; emergency amendment expired July 2, 2010, amended at 34 Ill. Reg. 10517, effective July 12, 2010; emergency amendment at 34 Ill. Reg. 13558, effective September 2, 2010, for a maximum of 150 days; amended at 35 Ill. Reg. _____, effective _____.

Section 325.10 Definitions

"Account" means an account for advance deposit wagering with a specific identifiable record of deposits, wagers and withdrawals established by an account holder and managed by the advance deposit wagering licensee.

"Account holder" means an individual who successfully completed an application and for whom the advance deposit wagering licensee has opened an account.

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"Advance deposit wagering" or "ADW" means a method of pari-mutuel wagering that is permissible under the Interstate Horseracing Act (15 USC 3001 et seq.) and in which an individual may establish an account with an entity licensed by the Board, deposit money into the account, and use the account balance to pay for pari-mutuel wagers in person, by telephone or through other electronic media, including, but not limited to, the internet.

"Advance deposit wagering licensee" or "ADW licensee" means a person licensed by the Board to conduct advance deposit wagering. An advance deposit wagering licensee shall be an organization licensee or a person or third party who contracts with an organization licensee in order to conduct advance deposit wagering.

"Applicant" means an individual who has submitted an application to establish an ADW account with an ADW licensee.

"Confidential information" includes, but is not limited to:

- The amount of money credited to, debited from, withdrawn from, or present in any particular account holder's account;

- The amount of money wagered by a particular account holder on any race or series of races;

- The account number and secure personal identification code of a particular account holder;

- The identities of particular entries on which the account holder is wagering or has wagered; and

- Unless otherwise authorized by the account holder, the name, address and other personal information in the possession of the ADW licensee or organization licensee that would identify the account holder to anyone other than the Board or the advance deposit wagering licensee.

"Credits" means all inflow of money to an account.

"Debits" means all outflow of money from an account.

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"Deposit" means a payment of money by cash, check, money order, credit card, debit card or other electronic funds transfers made by an account holder to the account holder's account.

"Individual" means any natural person at least 18 years of age, but does not include any corporation, partnership, limited liability company, trust, estate or other legal entity.

"Licensee" means an individual organization licensee, an inter-track wagering licensee, an inter-track wagering location licensee, or an advance deposit wagering licensee, as this Part requires.

"Principal residence address" means the street address identified by an applicant or a current account holder as that individual's residential address, as that address may be verified by the advance deposit wagering licensee.

"Proper identification" means a form of identification accepted in the normal course of business to establish that the person making a transaction is an account holder.

"Terms of agreement" means the agreement, approved by the Board, between an advance deposit wagering licensee and an account holder that includes but is not limited to the terms and conditions for deposits, credits, debits, withdrawals and the opening and closing of accounts.

"Withdrawal" means a payment of money from an account by the ADW licensee to the account holder when properly requested by the account holder.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 325.60 Organization Licensee Simulcast Signals and Commission Fees

- a) All advance deposit wagering licensees shall televise or broadcast or display via the internet the simulcast signal of the live racing of all organization licensees and accept wagers on the live racing of all organization licensees.
- b) Advance deposit wagering licensees shall not be permitted to accept out-of-state wagers on any organization licensee's live racing signal without the approval and consent of the organization licensee providing the signal.

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- c) The Board finds that, as a means to maximize and support the highest simulcast commission rates charged to out-of-state entities by all organization licensees and therefore maximize revenues to horsemen's purse accounts and organization licensees, and to establish commission and purse splits consistent with existing wagering facility revenue divisions, all organization licensees shall provide their live racing simulcast signal to all advance deposit wagering licensees for a simulcast commission fee not to exceed 8%.
- d) An advance deposit wagering licensee's interstate commission fee shall not exceed ~~95~~% except for Grade 1 thoroughbred races and harness races with purses of \$200,000 or more.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 325.80 Anti-Competitive Practices

- a) No licensee shall engage in any anti-competitive practices in the process of contracting for the right to receive or send any interstate simulcast signal or wagering on such signal. For the purpose of this Part, anti-competitive practices shall include, but not be limited to:
 - 1) any agreement to pay excessive or unreasonable fees for the right to receive an interstate signal. In determining whether a fee is excessive or unreasonable, the Board shall consider prevailing rates paid for comparable signals in the past, and whether any commonality of ownership or revenue sharing exists, partially or wholly, between the Illinois licensee and the entity receiving the fees; or
 - 2) any agreement, combination, trust or joint enterprise with any other track or entity in which multiple interstate signals are bundled together for the purpose of securing an excessive or unreasonable fee for one or more signals in the group in exchange for the right to receive any of the signals in the group; or
 - 3) any other activity designed to artificially inflate prices beyond reasonable market rates.
- b) Licensees in violation of this Part shall be subject to civil penalties up to \$10,000 per occurrence and/or license suspension or revocation.

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(Source: Added at 35 Ill. Reg. _____, effective _____)